

AMENDED IN SENATE MAY 21, 1998

AMENDED IN SENATE MAY 5, 1998

SENATE BILL

No. 2075

Introduced by Senator Polanco

February 20, 1998

An act to amend Sections 9855 and 9873 of the Business and Professions Code, *and to amend Section 12741 of the Insurance Code*, relating to service contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 2075, as amended, Polanco. Appliance and electronics service contracts.

The Electronic and Appliance Repair Dealer Registration Law provides for regulation by the Bureau of Electronic and Appliance Repair of service contracts relating to the maintenance or repair of appliances and electronic sets, defined to include televisions, radios, computer systems, video equipment, photocopiers, facsimile machines, and other related products.

This bill would provide that service contracts subject to regulation under these provisions include service contracts under which the seller of the service contract is responsible for the maintenance or repair of the appliance or electronic set, other than a service contract offered by a builder in conjunction with the sale of a home. Existing law provides for a registration fee for service contractors of not more than \$75 for each place of business.

This bill would provide for a fee established by the director in an amount sufficient to pay for the costs associated with the regulation of service contractors who are not also service dealers.

Existing law provides for the regulation of home protection contracts by the Department of Insurance, but excludes from regulation service contracts, guarantees, or warranties covering a home appliance, system, or component, under certain circumstances.

This bill would exempt service contracts as defined under the Electronic and Appliance Repair Dealer Registration Law from those provisions regulating insurance.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9855 of the Business and
2 Professions Code is amended to read:

3 9855. The definitions used in this section shall govern
4 the construction and terms as used in this chapter:

5 (a) "Service contract" means a contract in writing to
6 perform, over a fixed period of time or for a specified
7 duration, services relating to the maintenance or repair
8 of an electronic set or appliance as defined by this
9 chapter. "Service contract" includes a contract in writing
10 for maintenance or repair under which the seller of the
11 service contract is responsible for maintenance or repair
12 of the electronic set or appliance, other than a service
13 contract offered by a builder of a home in conjunction
14 with the sale of a home.

15 (b) "Service contract administrator" or
16 "administrator" means a person, other than a service
17 contract seller or an insurer admitted to do business in
18 this state, who performs or arranges, or has an affiliate
19 who performs or arranges, the collection, maintenance,
20 or disbursement of moneys to compensate any party for
21 claims or repairs pursuant to a service contract, and who
22 also performs or arranges, or has an affiliate who performs

1 or arranges, any of the following activities on behalf of
2 service contract sellers:

3 (1) Providing service contract sellers with service
4 contract forms.

5 (2) Participating in the adjustment of claims arising
6 from service contracts.

7 (3) Arranging on behalf of service contract sellers the
8 insurance required by Section 9855.2.

9 A service contract administrator shall not be an obligor
10 on a service contract.

11 (c) “Service contract seller” or “seller” means a
12 person who sells or offers to sell a service contract to a
13 service contractholder.

14 (d) “Service contractholder” means a person who
15 purchases or receives a service contract from a service
16 contract seller.

17 (e) “Service contractor” means a service contract
18 administrator or a service contract seller.

19 (f) “Service contract reimbursement insurance
20 policy” means a policy of insurance issued by an insurer
21 admitted to do business in this state providing coverage
22 for all obligations and liabilities incurred by a service
23 contract seller under the terms of the service contracts
24 sold in this state by the service contract seller to a service
25 contractholder. The service contract reimbursement
26 insurance policy shall either cover all service contracts
27 sold or specifically cover those contracts sold to residents
28 of the State of California.

29 SEC. 2. Section 9873 of the Business and Professions
30 Code, as amended by Section 11 of Chapter 1265 of the
31 Statutes of 1993, is amended to read:

32 9873. The fees prescribed by this chapter shall be set
33 by the director by regulation, according to the following
34 schedule:

35 (a) (1) The initial registration fee for an electronic
36 repair industry service dealer or for an appliance repair
37 industry service dealer is not more than one hundred
38 sixty-five dollars (\$165) for each place of business in this
39 state. The initial registration fee for a service contractor
40 shall be established by the director for each place of

1 business in this state in an amount sufficient to pay for the
2 costs associated with the regulation of service contractors
3 who are not also service dealers.

4 (2) The initial registration fee for a person who
5 engages in business as both an electronic repair industry
6 service dealer and an appliance repair industry service
7 dealer is not more than three hundred twenty-five dollars
8 (\$325) for each place of business in this state. The initial
9 registration fee for a person who is a service contractor
10 and engages in business as either an electronic repair
11 industry service dealer or an appliance repair industry
12 service dealer is not more than two hundred forty dollars
13 (\$240) for each place of business in this state.

14 (3) The initial registration fee for a person who
15 engages in both the electronic repair industry and the
16 appliance repair industry as a service dealer and is a
17 service contractor is not more than four hundred dollars
18 (\$400) for each place of business in this state.

19 A service dealer or service contractor who does not
20 operate a place of business in this state, but engages in the
21 electronic repair industry, the appliance repair industry,
22 or sells, issues, or administers service contracts in this state
23 shall pay the registration fee specified herein as if he or
24 she had a place of business in this state.

25 (b) (1) The annual registration renewal fee for an
26 electronic repair industry service dealer or for an
27 appliance repair industry service dealer is not more than
28 one hundred sixty-five dollars (\$165) for each place of
29 business in this state, if renewed prior to its expiration
30 date. The annual registration renewal fee for a service
31 contractor shall be established by the director for each
32 place of business in this state, if renewed prior to its
33 expiration date, in an amount sufficient to pay for the
34 costs associated with the regulation of service contractors
35 who are not also service dealers.

36 (2) The annual renewal fee for a service dealer who
37 engages in the business as both an electronic repair
38 industry service dealer and an appliance repair industry
39 service dealer is not more than three hundred dollars
40 (\$300) for each place of business in this state.



(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars (\$375) for each place of business in this state.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 12741 of the Insurance Code, as amended by Section 2 of Chapter 523 of the Statutes of 1997, is amended to read:

12741. This part does not apply to:

(a) Performance guarantees or service contracts given by either the builder of a home or the manufacturer or seller of an appliance or other system or component, whether or not an identifiable charge is made for such guarantee or service contract.

(b) A service contract, guarantee, or warranty intending to guarantee or warrant the repairs or service of a home appliance, system or component, provided the service contract, guarantee or warranty is issued by a person who has sold, serviced, repaired or provided replacement of the appliance, system or component at the time of, or prior to issuance of the contract, guarantee or warranty; and, provided, further, that the person issuing the service contract, guarantee, or warranty, does not engage in the business of a home protection company.

(c) *The provider of a service contract as defined in Section 9855 of the Business and Professions Code.*

1 (d) The provider of a pest control service agreement
2 pursuant to Section 8516 of the Business and Professions
3 Code.

4 ~~(d)~~

5 (e) A repair or maintenance program for a home
6 electrical system, or a component of such a wiring system
7 where the program is offered by a person or affiliate of a
8 person whose business is regulated by the Public Utilities
9 Commission, provided that the repair or maintenance
10 program is related to a service provided by the regulated
11 person or affiliate of the regulated person, and that the
12 regulated person, or affiliate of the regulated person, or
13 parent company of the regulated person acts as the
14 guarantor of any repair or maintenance program created
15 under this subdivision regardless of whether the service
16 is performed by the regulated person or an affiliate.

17 The company offering the program shall designate the
18 company that will act as the guarantor of the program.

19 ~~(e)~~

20 (f) This section shall remain in effect only until
21 January 1, 2004, and as of that date is repealed, unless a
22 later enacted statute, that is enacted before January 1,
23 2004, deletes or extends that date.

24 *SEC. 4. Section 12741 of the Insurance Code, as added*
25 *by Section 3 of Chapter 523 of the Statutes of 1997, is*
26 *amended to read:*

27 12741. This part shall not apply to:

28 (a) Performance guarantees or service contracts
29 given by either the builder of a home or the manufacturer
30 or seller of an appliance or other system or component,
31 whether or not an identifiable charge is made for such
32 guarantee or service contract.

33 (b) Any service contract, guarantee, or warranty
34 intending to guarantee or warrant the repairs or service
35 of a home appliance, system or component, provided
36 such service contract, guarantee, or warranty is issued by
37 a person who has sold, serviced, repaired or provided
38 replacement of that appliance, system or component at
39 the time of, or prior to issuance of the contract, guarantee,
40 or warranty; and, provided, further, that the person

1 issuing the service contract, guarantee, or warranty does
2 not engage in the business of a home protection company.

3 (c) *The provider of a service contract as defined in*
4 *Section 9855 of the Business and Professions Code.*

5 (d) The provider of any pest control service
6 agreement pursuant to Section 8516 of the Business and
7 Professions Code.

8 ~~(d)~~

9 (e) This section shall become operative January 1,
10 2004.

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